

**ART EXHIBIT AGREEMENT BY AND BETWEEN THE CITY OF FRISCO, TEXAS,
AND**

(Artist)

This Art Exhibit Agreement ("Agreement") is made and entered into this ____ day of _____, by and between the City of Frisco, Texas ("City"), a Home-Rule Municipal Corporation, and _____ ("Artist") on the terms and conditions set forth below.

WHEREAS, the Exhibition is anticipated to be held from _____ through _____ and any additional dates agreed to in writing; and

WHEREAS, the Exhibition will be located at Frisco City Hall, 6101 Frisco Square Blvd., Frisco, Texas ("City Hall"); and

WHEREAS, in exchange for the promotion of the arts, Artist desires to lend, at no cost to City, his/her Artwork (hereinafter defined) for display at the Exhibition as set forth below; and

WHEREAS, City has investigated and determined that it would be beneficial and in the best interests of the City and its citizens to allow the Artist to place the Artwork at City Hall to promote visual arts in the City on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, covenants, and agreements hereinafter set forth, Artist and City agree as follows:

1. **Artwork and Agency.** Artist agrees to, at no cost to City, lend his/her Artwork, as more particularly described and/or depicted on Exhibit A, attached hereto and incorporated herein for all purposes, for display at the Exhibition ("Artwork"). All modifications or additions to Exhibit A shall be in writing, signed by both parties, and attached to this Agreement. Artist and City agree that City is not, under any circumstance, acting as Artist's agent, dealer and/or exclusive seller. The parties acknowledge and agree that the Exhibition is the sole and exclusive event of the City in its promotion of public art.

2. **Delivery/Loan Period.** Artist hereby agrees to loan the Artwork to City from _____ through _____. Artist shall, at his/her sole cost and expense, be responsible for delivery and removal of the Artwork from the Exhibition, said removal to occur no later than _____ ("Removal Date"). Artist acknowledges and agrees that space is limited in City Hall and that all artwork submitted for display during the Exhibition is subject to the review and approval of the City's Public Art Board.

3. **Installation and Curatorship.** Artist shall deliver the Artwork in a form that is ready for immediate display. Two-dimensional ("2D") Artwork shall be wired for hanging and three-dimensional ("3D") artwork must be ready for installation immediately upon delivery to the Exhibition. Artist shall tape the following information on the back of 2D pieces and attach temporarily to 3D pieces: Artist's name, title of piece, and medium.

The Artwork must be approved, in its sole discretion, by the City's Public Art Board.

4. **Artist Assumption of Liability and Waiver/Removal of Artwork.** Artist acknowledges and agrees that City will not provide any security for the Exhibition, including, without limitation, set up, operation and teardown of the Exhibition, and City shall not, for any reason, be liable for any lost, stolen and/or damaged Artwork and/or the related materials, equipment and/or any other items associated and/or used in conjunction with the Artwork and/or Exhibition. **ARTIST HEREBY RELEASES CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FROM, AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, HE/SHE MAY HAVE WITH REGARD TO LOST, STOLEN AND/OR DAMAGED ARTWORK AND/OR RELATED MATERIALS, EQUIPMENT AND/OR ANY OTHER ITEMS ASSOCIATED AND/OR USED IN CONJUNCTION WITH THE ARTWORK AND/OR EXHIBITION.**

Should Artist fail to remove the Artwork by the Removal Date, City shall have the right to dispose of the Artwork and any other items related thereto in any manner deemed appropriate solely by City. Artist shall be responsible for any and all costs and expenses associated with City's removal of the Artwork and/or the related materials, equipment and/or any other items associated and/or used in conjunction with the Exhibition as provided in this Paragraph. **ARTIST HEREBY RELEASES CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FROM, AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, HE/SHE MAY HAVE WITH REGARD TO, CITY'S REMOVAL OF THE ARTWORK AND/OR RELATED MATERIALS, EQUIPMENT AND/OR ANY OTHER ITEMS ASSOCIATED AND/OR USED IN CONJUNCTION WITH THE EXHIBITION AS PROVIDED IN THIS PARAGRAPH.**

5. **Photographic Rights.** Artist hereby grants permission to City to photograph and/or videotape and/or to authorize others to photograph and/or videotape the Artwork and Exhibition for any non-commercial use, including but not limited to, installation documentation, publicity of the Artwork and/or Exhibition, record keeping and additional non-commercial purposes such as, among others, educational, public relations and promotion of the arts.

6. **Representations and Warranties Regarding Copyright.** Artist hereby warrants and represents that the Artwork is an original creation of Artist and will not infringe the copyright, trademark or other intangible rights of any third party.

7. **Termination/Waiver of Damages.** This Agreement may, at any time, be terminated for any reason or no reason at all. Should City terminate this Agreement, **ARTIST HEREBY RELEASES CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, SERVANTS, REPRESENTATIVES AND EMPLOYEES, FROM, AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, HE/SHE MAY HAVE WITH REGARD TO CITY'S TERMINATION OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ACTUAL AND/OR CONSEQUENTIAL DAMAGES.**

8. **Conflicting Events.** City will coordinate the scheduling of the Exhibition so as not to conflict with any event and/or function of the City. Should a conflict arise between the Exhibition and an event and/or function of the City, the City's event and/or function shall take precedence over the Exhibition.

9. **No Security/Waiver of Damages/Liability.** Artist acknowledges and agrees that City will not provide any security for the Exhibition, including, without limitation, set up, operation, viewing by the public and/or removal of the Artwork at the conclusion of the Exhibition, and City shall not be liable for any lost, stolen and/or damaged property, materials, equipment and/or the Artwork and any other items associated and/or used in conjunction with the Exhibition and/or Artwork. **ARTIST HEREBY RELEASES CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FROM, AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, IT MAY HAVE WITH REGARD TO LOST, STOLEN AND/OR DAMAGED PROPERTY, MATERIALS, EQUIPMENT AND/OR THE ARTWORK AND ANY OTHER ITEMS ASSOCIATED AND/OR USED IN CONJUNCTION WITH THE EXHIBITION AND/OR ARTWORK.**

10. **Indemnification.** ARTIST SHALL DEFEND, INDEMNIFY, SAVE HARMLESS, AND EXEMPT CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES, SERVANTS AND EMPLOYEES FROM AND AGAINST ALL LAWSUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES INCIDENT TO THE PERFORMANCE OF THIS AGREEMENT AND/OR THE SET UP, OPERATION, VIEWING BY THE PUBLIC AND/OR REMOVAL OF THE ARTWORK AND ARISING OUT OF A WILLFUL AND/OR NEGLIGENT ACT AND/OR OMISSION OF THE CITY AND/OR ARTIST, THEIR RESPECTIVE OWNERS, OFFICERS, PARTNERS, AGENTS, SERVANTS, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, VOLUNTEERS AND/OR EMPLOYEES. This Paragraph shall survive the termination of this Agreement.

11. **Entirety of Agreement, Governing Jurisdiction and Mediation.** This Agreement constitutes the entire Agreement between the parties. No modification will be enforceable except in writing and signed by both parties. This Agreement is governed by the laws of the State of Texas. In the event that any dispute arising under this Agreement results in litigation or mediation, such action or proceeding will be brought exclusively with the state court of Collin County, Texas.

12. **Reference to Artist.** When referring to Artist herein, this Agreement shall refer to and be binding upon Artist, his/her agents, representatives, servants, employees, volunteers and assigns.

13. **Reference to City.** When referring to City herein, this Agreement shall refer to and be binding upon the City of Frisco, its Council Members, officers, agents, representatives, servants, employees and assigns.

14. **Compliance with Laws.** Artist shall comply with any and all local, state and federal ordinances, rules, laws and regulations, as they currently exist, may be amended or in the future arising.

15. **Default.** In the event Artist fails to comply with any of the provisions of this Agreement, City shall have the following remedies, in addition to City's other rights and remedies:

- a. to immediately terminate this Agreement without any liability to City as previously provided herein; and/or
- b. to require the immediate cessation of the set up, operation and/or removal of the Artwork and/or Exhibition.

16. **Miscellaneous Provisions.**

a. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

b. **Assignment.** This Agreement is not assignable without the prior written consent of City.

c. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to Artist, to:

Artist

Attn: _____

If to City, to:

City of Frisco

Attn: City of Frisco Public Arts Manager

6101 Frisco Square Blvd.

Frisco, Texas 75034

d. **Sovereign Immunity.** The parties agree that City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

e. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the mutual written agreement of the parties hereto.

f. **Execution.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

g. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

h. **Authority to Execute.** The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

i. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein.

j. **Savings/Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

k. **Miscellaneous Representations.** Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

l. **Miscellaneous Drafting Provision.** This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

m. **Waiver.** Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

CITY:

The City of Frisco, Texas
6101 Frisco Square Blvd.
Frisco, Texas 75034
972.292.5100

ARTIST:

By: _____
George Purefoy
City Manager

By: _____
Title: _____

EXHIBIT “A”

ARTWORK

Title

Description

Medium

[Depiction attached]